

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARIO CARRERA and JOSE LUIS  
CALPEN0 GUEVARA , individually and on  
behalf of others similarly situated,

Plaintiffs,

- against -

OLIO RESTAURANTS LLC d/b/a OLIO E  
PIU; WHY NOT MY WAY LLC d/b/a  
DOMINIQUE BISTRO; EMIL STEFKOV; and  
DOMINICK PEPE,

Defendants.

USDC SDNY  
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**ORDER**

17 Civ. 5714 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

In this Fair Labor Standards Act (“FLSA”) action, the parties have submitted a proposed settlement agreement for judicial approval. “When reviewing an FLSA settlement agreement submitted for approval, ‘courts must consider whether the agreement reflects a reasonable compromise of disputed issues rather than a mere waiver of statutory rights brought about by an employer’s overreaching.’” Mosquera v. Masada Auto Sales, Ltd., No. 09-CV-4925 (NGG), 2011 WL 282327, at \*1 (E.D.N.Y. Jan. 25, 2011) (quoting Le v. SITA Info. Networking Computing USA, Inc., No. 07-CV-86 (JS), 2008 WL 724155, at \*1 (E.D.N.Y. Mar. 13, 2008)). “The court needs to be presented with sufficient evidence in order to determine ‘whether the settlement agreement represents a fair and reasonable resolution of [the] disputes.’” Id. (quoting Le, 2008 WL 724155, at \*1).

Here, Plaintiffs’ counsel has not provided an adequate explanation regarding why the proposed settlement constitutes a fair and reasonable resolution of the

dispute. Although counsel has stated that Plaintiffs “estimated that, in a best case scenario, [they] would be entitled to approximately \$15,961.31 in minimum and overtime base damages (\$10,545[.]31 for Plaintiff Carrera and \$5,416 for Plaintiff Calpeno),” see Joint Ltr. (Dkt. No. 30) at 2, counsel has not explained how these figures were calculated. Because it is not clear how counsel calculated the value of Plaintiffs’ minimum wage and overtime claims, liquidated damages claim, and total potential recovery, and has not explained why a significant discount from the total potential recovery is appropriate, the Court cannot determine whether the proposed settlement is fair and reasonable. Plaintiff’s counsel will submit a letter to the Court addressing these issues by **February 23, 2018**.

Dated: New York, New York  
February 15, 2018

SO ORDERED.



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Paul G. Gardephe  
United States District Judge